

**SUPREME COURT MINUTES  
THURSDAY, MAY 8, 2003  
SAN FRANCISCO, CALIFORNIA**

The Supreme Court of California reconvened in the courtroom of the Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on May 8, 2003, at 9:00 a.m.

Present: Chief Justice Ronald M. George, presiding, and Associate Justices Kennard, Baxter, Werdegarr, Chin, Brown, and Moreno.

Officers present: Frederick K. Ohlrich, Clerk; and Gail Gray, Deputy Clerk.

S107521      Miguel Fernandez, Plaintiff and Appellant  
                    v.  
                    Truman Lawson, Jr., et al., Defendant and Respondents  
                    Cause called. Michael J. Brady argued for Respondent Lawson.  
                    Arash Homampour argued for Appellant.  
                    Mr. Brady replied.  
                    Cause submitted.

S023628      The People, Respondent  
                    v.  
                    John Sapp, Appellant  
                    Cause called. Bruce Cohen argued for Appellant.  
                    Christopher Grove, Deputy Attorney General, argued for  
Respondent.  
                    Mr. Cohen replied.  
                    Cause submitted.

Court adjourned.

**S028339**PEOPLE v. SMITH (GREGORY CALVIN)  
Opinion filed: Judgment affirmed in fullMajority opinion by Chin, J.  
--- joined by, George, C.J., Kennard, Baxter,  
Werdegar, Brown, Moreno. JJ.**S027555**PEOPLE v. PRIETO (ALFREDO R.)  
Time extended to consider modification or rehearingto July 18, 2003, or the date upon which  
rehearing is either granted or denied,  
whichever occurs first.**S114157**B162987 Second Appellate District,  
Division OneCOMMISSION ON PEACE OFFICER  
STANDARDS  
& TRAINING v. S.C. (L.A. TIMES COMMUNICAT)  
Time extended to grant or deny review

to June 16, 2003.

**S114341**

C038754 Third Appellate District

TRINKLE v. CALIFORNIA STATE LOTTERY  
Time extended to grant or deny review

to June 12, 2003

**S114361**

H021871 Sixth Appellate District

HOCHMAN v. OAK TECHNOLOGY  
Time extended to grant or deny review

to June13, 2003

**S114392**B161535 Second Appellate District,  
Division EightTAYLOR (ALLEN RAYMOND) ON H.C.  
Time extended to grant or deny review

to June 13, 2003.

**S114409**B165321 Second Appellate District,  
Division FourGONZALEZ (JUAN M.) ON H.C.  
Time extended to grant or deny review

to June 13, 2003

**S114512**

E031606 Fourth Appellate District,  
Division Two

ALVAREZ-GASPARIN v. SAN BERNARDINO

Time extended to grant or deny review

to June 19, 2003.

**S114595**

D039536 Fourth Appellate District,  
Division One

CASA DE AMIGOS v. RADY

Time extended to grant or deny review

to June 19, 2003.

**S026223**

PEOPLE v. SMITH (GREGORY SCOTT)

Extension of time granted

to May 28, 2003 to file respondent's brief.  
Extension is granted based upon Supervising  
Deputy Attorney General William T. Harter's  
representation that he anticipates filing that  
brief by 5/28/2003. After that date, no further  
extension is contemplated.

**S026408**

PEOPLE v. LYNCH (FRANKLIN)

Extension of time granted

to July 14, 2003 to file appellant's opening  
brief. The court anticipates that after that date,  
only three further extensions totaling 180  
additional days will be granted. Counsel is  
ordered to inform his or her assisting attorney  
or entity, if any, and any assisting attorney or  
entity of any separate counsel of record, of  
this schedule, and to take all steps necessary to  
meet it.

**S042323**

PEOPLE v. BURNEY (SHAUN K.)

Extension of time granted

to June 19, 2003 to file respondent's brief.  
After that date, only one further extension  
totaling 60 additional days is contemplated.  
Extension is granted based upon Deputy  
Attorney General Warren P. Robinson's  
representation that he anticipates filing that  
brief by 8/18/2003.

**S045060**PEOPLE v. LOKER (KEITH T.)  
Extension of time granted

to July 7, 2003 to file respondent's brief.

**S056391**PEOPLE v. WILLIAMS (BOB)  
Extension of time grantedto July 7, 2003 to file appellant's opening  
brief.**S070839**PEOPLE v. CARASI (PAUL J.)  
Extension of time grantedto July 14, 2003 to file appellant's opening  
brief.**S107782**WELCH (DAVID E.) ON H.C.  
Extension of time grantedto June 11, 2003 to file the reply to the  
informal response to the petition for writ of  
habeas corpus. After that date, only four  
further extensions totaling about 120  
additional days will be granted. Extension is  
granted based upon counsel Wesley A. Van  
Winkle's representation that he anticipates  
filing that document by 10/15/2003.**S111494**D037680 Fourth Appellate District,  
Division OnePEOPLE v. KONOW  
Extension of time grantedto July 2, 2003 to file appellant's Answer Brief  
on the Merits.**S112103**MARTINEZ (OMAR) ON H.C.  
Extension of time grantedto June 16, 2003 to file the informal response  
to the petition for writ of habeas corpus. After  
that date, no further extension is contemplated.  
Extension is granted based

upon Deputy Attorney General Carlson M. Legrand's representation that he anticipates filing that document by 6/14/2003.

**S113275**

A097560 First Appellate District,  
Division One

**CAMPBELL v. REGENTS OF THE UNIVERSITY  
OF CALIFORNIA**

Extension of time granted

to June 18, 2003 to file Appellant's Opening  
Brief on the Merits.

**S033436****PEOPLE v. LEWIS AND OLIVER**

Order filed

Appellant LEWIS' application for permission  
to file an oversize reply brief is granted.

**S102162**

B145089 Second Appellate District,  
Division Seven

**PEOPLE v. GUTIERREZ**

Order filed

The order filed on March 27, 2003, extending  
the time for granting or denying rehearing in  
the above-entitled case until June 13, 2003, is  
amended nunc pro tunc to read, in its entirety:  
"The time for granting or denying rehearing in  
the above-entitled case is hereby extended to  
and including June 4, 2003, or the date upon  
which rehearing is either granted or denied,  
whichever occurs first".

**S105225**

F037295 Fifth Appellate District

**PEOPLE v. FLOYD**

Request for judicial notice granted

The Attorney General's request for Judicial  
Notice, filed on August 29, 2002.

**S113330****MILNER ON DISCIPLINE**

Recommended discipline imposed

It is ordered that **TIMOTHY V. MILNER,**  
**State Bar No. 109648**, be suspended from the  
practice of law for two years, that execution of  
the suspension be stayed, and that he be

placed on probation for two years subject to the conditions of probation, including four months actual suspension, recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on December 12, 2002. It is also ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that he comply with rule 955 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order. Costs are awarded to the State Bar pursuant to Business & Professions Code section 6086.10 and payable in equal installments for membership years 2004, 2005 and 2006.

\*(See Bus. & Prof. Code, § 6126, subd. (c).)

**S113334**

**NICHOLS ON DISCIPLINE**

Recommended discipline imposed

It is ordered that **STANLEY NICHOLS, State Bar No. 44310**, be suspended from the practice of law for one year and until he makes restitution to Roberta Rojas (or the Client Security Fund, if appropriate) in the amount of \$750 plus 10% interest per annum from April 16, 2001, and furnishes satisfactory proof thereof to the Probation Unit, State Bar Office of the Chief Trial Counsel, that execution of the suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation, including actual suspension for six months and until he makes restitution as set forth above, as recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on December 10, 2002. It is also ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order or during the

period of his actual suspension, whichever is longer. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that he comply with rule 955 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.\* Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.

\*(See Bus. & Prof. Code, § 6126, subd. (c).)

**S113335**

**KESATIE ON DISCIPLINE**

Recommended discipline imposed: disbarred

It is hereby ordered that **WILLIAM J. KESATIE, State Bar No. 131709**, be disbarred from the practice of law and that his name be stricken from the roll of attorneys. Respondent is also ordered to comply with rule 955 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.\* Costs are awarded to the State Bar. \*(See Bus. & Prof. Code, § 6126, subd. (c).)

**S113337**

**REISER ON DISCIPLINE**

Recommended discipline imposed

It is ordered that **WILLIAM LEO REISER, State Bar No. 67258**, be suspended from the practice of law for one year and until he returns the file and makes restitution to Emil F. Costa and Lynda Costa (or the Client Security Fund, if appropriate) in the amount of \$1,175 plus 10% interest per annum from December 30, 1996, and furnishes satisfactory proof thereof to the Probation Unit, State Bar Office of the Chief Trial Counsel, that execution of suspension be stayed, and that he be placed on probation for two years on

condition that he be actually suspended for 30 days and until he returns the file and makes restitution to Emil F. Costa and Lynda Costa (or the Client Security Fund, if appropriate) in the amount of \$1,175 plus 10% interest per annum from December 30, 1996, and furnishes satisfactory proof thereof to the Probation Unit, State Bar Office of the Chief Trial Counsel. Respondent is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed November 26, 2002. If respondent is actually suspended for two years or more, he shall remain actually suspended until he provides proof to the satisfaction of the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct. It is also ordered that respondent take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order or during the period of his actual suspension, whichever is longer. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) If respondent is actually suspended for 90 days or more, he is further ordered to comply with rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 days respectively, after the date this order is effective.\* Costs are awarded to the State Bar and one-half of said costs shall be added to and become part of the membership fees for the years 2004 and 2005. (Business & Professions Code section 6086.10.)

\* See Business and Professions Code section 6126, subdivision (c).

S113480

MCNEAL ON DISCIPLINE  
Recommended discipline imposed

It is ordered that **PATRICK DAYTON MCNEAL, State Bar No. 62102**, be suspended from the practice of law for three



years and until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct, that execution of the suspension be stayed, and that he be placed on probation for three years on condition that he be actually suspended for one year and until he makes restitution to Rosa Jaimez (or the Client Security Fund, if appropriate) in the amount of \$2,500.00 plus 10% interest per annum from December 20, 1996, and furnishes satisfactory proof thereof to the Probation Unit, State Bar Office of the Chief Trial Counsel. **Patrick Dayton McNeal** is further ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its decision filed on September 30, 2002, as corrected by its order filed November 19, 2002. It is also ordered that **Patrick Dayton McNeal** take and pass the Multistate Professional Responsibility Examination during the period of his actual suspension. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) **Patrick Dayton McNeal** is further ordered to comply with rule 955 of the California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.\* Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.

S113481

NISHINO ON DISCIPLINE

Recommended discipline imposed: disbarred

It is hereby ordered that **GILBERT YOSHIHARU NISHINO, State Bar No. 100036**, be disbarred from the practice of law and that his name be stricken from the roll of attorneys. **Gilbert Yoshiharu Nishino** is also

ordered to comply with rule 955 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.\* Costs are awarded to the State Bar.

\*(See Bus. & Prof. Code, § 6126, subd. (c).)

**S113483**

**BRAZE ON DISCIPLINE**

Recommended discipline imposed

It is ordered that **JAMES J. BRAZE, State Bar No. 75911**, be suspended from the practice of law for one year, that execution of the suspension be stayed, and that he be placed on probation for one year subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on December 18, 2002. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.

**S113484**

**ORTEGA ON DISCIPLINE**

Recommended discipline imposed

It is ordered that **ROCKY VICTOR ORTEGA, State Bar No. 112580**, be suspended from the practice of law for one year, that execution of the suspension be stayed, and that he be placed on probation for one year subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its oas filed on November 27, 2002. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878,

891, fn. 8.) Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.

**S113531**

BLANCHFILL ON DISCIPLINE  
Recommended discipline imposed

It is ordered that **STEPHEN I. BLANCHFILL, State Bar No. 132884**, be suspended from the practice of law for one year, that execution of the suspension be stayed, and that he be placed on probation for two years, subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on December 30, 2002. The period of probation shall be consecutive to the probation previously imposed in S096218 (99-O-12388). It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar and one-half of said costs shall be added to and become part of the membership fees for the years 2004 and 2005. (Business & Professions Code section 6086.10.)

**S113532**

COMSTOCK ON DISCIPLINE  
Recommended discipline imposed

It is ordered that **ARTHUR HERBERT COMSTOCK, JR., State Bar No. 176579**, be suspended from the practice of law for five years and until he makes restitution to Stanley Baumann (or the Client Security Fund, if appropriate) in the amount of \$5,526 plus 10% interest per annum from October 7, 1999; to Jane Gilkey (or the Client Security Fund, if appropriate) in the amount of \$2,248 plus 10% interest per annum from March 15, 1999; to County of Los Angeles Public

Administrator of the Estate of Max Abrams (or the Client Security Fund, if appropriate) in the amount of \$3,300 plus 10% interest per annum from February 6, 2001, and furnishes satisfactory proof thereof to the Probation Unit, State Bar Office of the Chief Trial Counsel, that execution of the suspension be stayed, and that he be placed on probation for five years on condition that he be actually suspended for two years and six months and until he makes restitution to Stanley Baumann (or the Client Security Fund, if appropriate) in the amount of \$5,526 plus 10% interest per annum from October 7, 1999; to Jane Gilkey (or the Client Security Fund, if appropriate) in the amount of \$2,248 plus 10% interest per annum from March 15, 1999; to County of Los Angeles Public Administrator of the Estate of Max Abrams (or the Client Security Fund, if appropriate) in the amount of \$3,300 plus 10% interest per annum from February 6, 2001, and furnishes satisfactory proof thereof to the Probation Unit, State Bar Office of the Chief Trial Counsel, and until he has shown proof satisfactory to the State Bar Court of respondent's rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct. Respondent is further ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on October 16, 2002, as modified by its order filed December 24, 2002. Respondent is also ordered to comply with rule 955 of the California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of this order.\* Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and payable in accordance with Business and Professions Code section 6140.7.

\*(See Bus. & Prof. Code, § 6126, subd. (c).)

**S115565****CHATBURN ON RESIGNATION**

Resignation accepted with disciplinary proceeding pending

The voluntary resignation of **LOWELL DAVID CHATBURN, State Bar No. 55032**, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 955 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 60 and 70 days, respectively, after the date this order is filed.\* Costs are awarded to the State Bar.

\*See Business & Professions Code, § 6126, subdivision (c).

**S115569****VOGT ON RESIGNATION**

Resignation accepted with disciplinary proceeding pending

The voluntary resignation of **EDWARD W. VOGT, State Bar No. 44012**, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 955 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 60 and 70 days, respectively, after the date this order is filed.\* Costs are awarded to the State Bar.

\*(See Bus. & Prof. Code, § 6126, subd. (c).)

**S115571****MALKUS ON RESIGNATION**

Resignation accepted with disciplinary proceeding pending

The voluntary resignation of **JAMES ALAN MALKUS, State Bar No. 38078**, as a member of the State Bar of California is

accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 955 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 60 and 70 days, respectively, after the date this order is filed.\* Costs are awarded to the State Bar.

\*(See Bus. & Prof. Code, § 6126, subd. (c).)

**Bar Misc. 4186**

IN THE MATTER OF THE APPLICATION OF THE  
COMMITTEE OF BAR EXAMINERS OF THE  
STATE OF CALIFORNIA FOR ADMISSION OF  
ATTORNEYS

The written motion of the Committee of Bar Examiners that the following named applicants, who have fulfilled the requirements for admission to practice law in the State of California, be admitted to the practice of law in this state is hereby granted, with permission to the applicants to take the oath before a competent officer at another time and place:

(LIST OF NAMES ATTACHED TO  
ORIGINAL ORDER)